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| WINSTON ELLIOTT, |) | |
| |) | |
| Plaintiff, |) | Civil Action No. |
| |) | |
| v. |) | |
| |) | Jury Trial Demanded |
| MICHAEL S. REGAN, |) | |
| ADMINISTRATOR, |) | |
| ENVIRONMENTAL PROTECTION |) | |
| AGENCY, |) | |
| |) | |
| Defendant. |) | |

NOW COMES the Plaintiff, and complaining of the Defendant, alleges as follows:

1. This is an action seeking damages against Defendant for violation of Plaintiff's rights protected by Title VII of the Civil Rights Act of 1964, 42 USC §2000e et. seq.

2. Plaintiff, Winston Elliott (hereinafter “Elliott” or “Plaintiff”), is a citizen of and a resident of Durham, Durham County, North Carolina.
3. Defendant, Environmental Protection Agency (hereinafter “Defendant” or “EPA”) is a Federal agency and may be served through process to Sandra S. Hairston, Acting United States Attorney, Middle District of North Carolina, 101 South Edgeworth Street, 4th Floor, Greensboro, NC 27401.

4. The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 as there are issues of Federal Law.
5. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391 (c) as Defendant is subject to the personal jurisdiction of this Court and because many of the acts giving rise to this action occurred in this District.

FACTUAL ALLEGATIONS

6. Plaintiff is a black male from Great Britain and was hired as a software engineer by TRC Environmental Corporation staffing agency (hereinafter “TRC”) and assigned to work at Defendants location at Environmental Protection Agency (hereinafter “EPA”) Research Triangle Park, EPA Human Studies Facility in Chapel Hill, North Carolina.
7. At all relevant times, TRC was contracted by the EPA. There are both TRC and EPA personnel working at the site and overseeing the operations.
8. Between 2017 and 2019, Plaintiff was subject to repeated harassment and discrimination in his workplace due to his race and national origin.
9. Examples of this ongoing harassment and discrimination include:
 - a. Mr. Samet blocked Plaintiff from entering the building via the card reader and he sensed that Mr. Samet was wanting a confrontation of some sort. This was common behavior from Mr. Samet towards Plaintiff.
 - b. After asking questions or for assistance on a task, Plaintiff was told, “This may be too difficult for you to understand” or “This is probably more information than you can handle” or “you don’t understand what I am talking about do you?” because he

was not born in the United States and therefore spoke with a different accent than other TRC employees and managers;

- c. Co-workers directed racial slurs toward him, including, but not limited to, calling him a “f*cking n*gger”;
 - d. Co-workers acted in a physically aggressive and intimidating matter toward him; and
 - e. Co-workers were verbally abusive and harassing toward him due to his race and/or national origin.
 - f. Plaintiff was accosted in the stairway by a female employee who angrily told him to “get out of my way” and that he was a “horrible person”.
10. Plaintiff reported these incidents of harassment and discrimination due to his race and national origin to management and human resources on multiple occasions in 2018 and 2019.
11. Receiving no resolution to his complaints about this harassment and discrimination due to his race and national origin, Plaintiff reported the behavior on August 29, 2019.
12. On September 6, 2019, he was notified by Ms. Moczygemba that he was banned from the staffing facility on the UNC-CH campus effective immediately.
13. Defendant EPA was at all times pertinent hereto a joint employer of Plaintiff.
14. Because of the discrimination, harassment, and retaliation that he experienced, Plaintiff suffered significant physical and mental health problems and great emotional distress.
15. Plaintiff filed a timely EEO alleging harassment on the basis of race/color and national origin on November 2, 2019. The EPA dismissed Plaintiff’s claim. Plaintiff then appealed to the EEOC. On October 7, 2020, the EEOC vacated the dismissal and

- remanded to the EPA for further processing. The EPA then issued another dismissal or final agency action (FAD) on December 11, 2020.
16. Plaintiff then filed a timely appeal to the EEOC on January 5, 2021. The EEOC affirmed the EPA's FAD by a decision issued on June 28, 2021.
17. This action is filed within 90 days of Plaintiff's receipt of the EEOC decision that was issued on June 28, 2021.

FIRST CLAIM FOR RELIEF
(Harassment under Title VII 42 U.S.C. § 2000e *et. seq.*)

18. Plaintiff incorporates by reference the allegations of paragraph 1 through 17 of the complaint.
19. Plaintiff is black and from Great Britain, and Defendant's conduct described herein was directed to Plaintiff because of his race and national origin.
20. The conduct directed toward Plaintiff due to his race and national origin was severe or pervasive, unwelcome, subjectively and objectively offensive constituting unlawful race and national origin harassment.
21. Defendant subjection of Plaintiff to unlawful harassment caused Plaintiff's damages, including but not limited to great emotional distress, mental pain, suffering, stress, grief, worry, and mental anguish.
22. Defendant's actions in unlawfully harassing Plaintiff were intentional, willful, and in reckless disregard for Plaintiff's legally protected rights.
23. Therefore, Plaintiff sues Defendant for unlawful harassment in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et. seq.*

SECOND CLAIM FOR RELIEF
(Title VII Retaliation under 42 U.S.C. § 2000e et. seq.)

24. Plaintiff incorporates by reference the allegations of paragraphs 1 through 17 of this complaint.
25. Plaintiff reported unlawful harassment and discrimination he had been subjected to due to his race and national origin to the defendant and to the Equal Opportunity and Compliance office.
26. Plaintiff's reports to Defendant of harassment due to his race and national origin and his EEOC complaint both constitute legally protected activity under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, et. seq.
27. Defendant's banning of Plaintiff from the premises and their termination of his employment was due to his legally protected activity and was unlawful retaliation.
28. Any of Defendant's alleged reasons for these adverse employment actions are mere pretext to cover for their unlawful retaliation.
29. Defendant's retaliation against Plaintiff for engaging in legally protected activities violated Plaintiff's rights under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, et. seq.
30. Defendant's retaliation against Plaintiff in violation of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, et. seq. caused Plaintiff injuries including but not limited to pecuniary damages, emotional distress, mental pain, suffering, stress, grief, worry and mental anguish.
31. Therefore, Plaintiff sues Defendant for unlawful retaliation in violation of Title VII, 42 U.S.C. § 2000e, et seq.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that:

- A. The Court enter a judgment in favor of Plaintiff and against Defendant to include compensation for lost wages, lost benefits, and other economic losses that were proximately caused by the unlawful actions referenced herein.
- B. The Court enter an award in favor of Plaintiff and against Defendant for great emotional distress, mental pain, suffering, stress, grief, worry, and mental anguish caused by Defendant's actions as alleged herein.
- C. The Court enter an award in favor of Plaintiff and against Defendant for reasonable expenses and costs including attorney's fees.
- D. This matter be tried by a jury.
- E. The judgment bear interest at the legal rate from the date of filing this action until paid.
- F. Defendant be taxed with the costs of this action; and
- G. The Court order such other and further relief as it may deem just and proper.

Respectfully submitted this the 24th day of September, 2021.

/s/ KIRK J. ANGEL
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